



January 26, 2006

HOUSE BILL No. 1028

DIGEST OF HB 1028 (Updated January 25, 2006 12:44 pm - DI 103)

Citations Affected: IC 34-6; IC 34-28; IC 35-41.

Synopsis: Firearms and self-defense. Prohibits the adoption or enforcement of a policy or rule that prohibits or has the effect of prohibiting an individual from legally possessing a firearm that is locked in the individual's motor vehicle while the motor vehicle is in or on the person's property. Excepts possession of a firearm: (1) on school property or a school bus; (2) on certain child care and shelter facility property; (3) on penal facility property; (4) on oil refinery property; and (5) in violation of federal law. Provides that a person who does not adopt or enforce such a policy or rule is not liable for resulting damages. Authorizes a civil action for damages, costs, attorney's fees, and injunctive relief to remedy a violation. Specifies that a person: (1) is justified in using deadly force; and (2) does not have a duty to retreat; if the person reasonably believes that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony. Specifies that a person: (1) is justified in using reasonable force, including deadly force, against another person; and (2) does not have a duty to retreat; if the person reasonably believes that the force is necessary to prevent or terminate the other person's unlawful entry of or attack on the person's dwelling, curtilage, or occupied motor vehicle.

Effective: July 1, 2006.

Koch, Ulmer, Ruppel

January 12, 2006, read first time and referred to Committee on Public Safety and Homeland Security.
January 25, 2006, amended, reported — Do Pass.

HB 1028—LS 6327/DI 69+



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January 26, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1028

A BILL FOR AN ACT to amend the Indiana Code concerning firearms and self-defense.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-6-2-46.7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 46.7. "Firearm", for
3 purposes of **IC 34-28-7** and IC 34-30-20, has the meaning set forth in
4 IC 35-47-1-5.
- 5 SECTION 2. IC 34-6-2-103 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 103. (a) "Person", for
7 purposes of IC 34-14, has the meaning set forth in IC 34-14-1-13.
- 8 (b) "Person", for purposes of IC 34-24-4 and **IC 34-28-7**, means:
9 (1) an individual;
10 (2) a governmental entity;
11 (3) a corporation;
12 (4) a firm;
13 (5) a trust;
14 (6) a partnership; or
15 (7) an incorporated or unincorporated association that exists
16 under or is authorized by the laws of this state, another state, or a
17 foreign country.

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(c) "Person", for purposes of section 44.8 of this chapter, means an adult or a minor.

(d) "Person", for purposes of IC 34-26-4, has the meaning set forth in IC 35-41-1-22.

(e) "Person", for purposes of IC 34-30-5, means any of the following:

- (1) An individual.
- (2) A corporation.
- (3) A partnership.
- (4) An unincorporated association.
- (5) The state (as defined in IC 34-6-2-140).
- (6) A political subdivision (as defined in IC 34-6-2-110).
- (7) Any other entity recognized by law.

(f) "Person", for purposes of IC 34-30-6, means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity that:

- (1) has qualifications or experience in:
 - (A) storing, transporting, or handling a hazardous substance or compressed gas;
 - (B) fighting fires;
 - (C) emergency rescue; or
 - (D) first aid care; or
- (2) is otherwise qualified to provide assistance appropriate to remedy or contribute to the remedy of the emergency.

(g) "Person", for purposes of IC 34-30-18, includes:

- (1) an individual;
- (2) an incorporated or unincorporated organization or association;
- (3) the state of Indiana;
- (4) a political subdivision (as defined in IC 36-1-2-13);
- (5) an agency of the state or a political subdivision; or
- (6) a group of such persons acting in concert.

(h) "Person", for purposes of sections 42, 43, 69, and 95 of this chapter, means an individual, an incorporated or unincorporated organization or association, or a group of such persons acting in concert.

(i) "Person", for purposes of IC 34-30-10.5, means the following:

- (1) A political subdivision (as defined in IC 36-1-2-13).
- (2) A volunteer fire department (as defined in IC 36-8-12-2).
- (3) An employee of an entity described in subdivision (1) or (2) who acts within the scope of the employee's responsibilities.
- (4) A volunteer firefighter (as defined in IC 36-8-12-2) who is acting for a volunteer fire department.

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(5) After March 31, 2002, a corporation, a limited liability company, a partnership, an unincorporated association, or any other entity recognized by law.

SECTION 3. IC 34-28-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 7. Possession of Firearms on Certain Property

Sec. 1. This chapter applies only to possession of a firearm by an individual who may legally possess a firearm.

Sec. 2. (a) Notwithstanding any other law and except as provided in subsection (b), a person may not adopt or enforce a policy or rule that:

(1) prohibits; or

(2) has the effect of prohibiting;

an individual from possessing a firearm that is locked in the individual's motor vehicle while the motor vehicle is in or on the person's property.

(b) Subsection (a) does not apply to an individual who possesses a firearm:

(1) on school property or on a school bus in violation of IC 20-33-8-16 or IC 35-47-9;

(2) on the property of:

(A) a child caring institution;

(B) an emergency shelter care child caring institution;

(C) a private secure facility;

(D) a group home; or

(E) an emergency shelter care group home;

in violation of 470 IAC 3-11-80, 470 IAC 3-12-79, 470 IAC 3-13-80, 470 IAC 3-14-78, or 470 IAC 3-15-77;

(3) on the property of a penal facility (as defined in IC 35-41-1-21);

(4) on the property of an oil refinery; or

(5) in violation of federal law.

Sec. 3. (a) An individual may bring a civil action to enforce section 2 of this chapter.

(b) If a person violates section 2 of this chapter, the court, in an action brought under subsection (a), may do the following:

(1) Award:

(A) actual damages; and

(B) court costs and attorney's fees;

to the prevailing individual.

(2) Enjoin further violations of this chapter.

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1 **Sec. 4. This chapter does not limit a person's rights or remedies**
 2 **under any other state or federal law.**

3 **Sec. 5. A person is not liable for any injury or damage resulting**
 4 **from the person's compliance with section 2 of this chapter.**

5 SECTION 4. IC 35-41-3-2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person is
 7 justified in using reasonable force against another person to protect the
 8 person or a third person from what the person reasonably believes to be
 9 the imminent use of unlawful force. However, a person:

10 (1) is justified in using deadly force; ~~only~~ **and**

11 (2) **does not have a duty to retreat;**

12 if the person reasonably believes that that force is necessary to prevent
 13 serious bodily injury to the person or a third person or the commission
 14 of a forcible felony. No person in this state shall be placed in legal
 15 jeopardy of any kind whatsoever for protecting the person or a third
 16 person by reasonable means necessary.

17 (b) A person:

18 (1) is justified in using reasonable force, including deadly force,
 19 against another person; **and**

20 (2) **does not have a duty to retreat;**

21 if the person reasonably believes that the force is necessary to prevent
 22 or terminate the other person's unlawful entry of or attack on the
 23 person's dwelling, ~~or~~ curtilage, **or occupied motor vehicle.**

24 (c) With respect to property other than a dwelling, ~~or~~ curtilage, **or**
 25 **an occupied motor vehicle**, a person is justified in using reasonable
 26 force against another person if the person reasonably believes that the
 27 force is necessary to immediately prevent or terminate the other
 28 person's trespass on or criminal interference with property lawfully in
 29 the person's possession, lawfully in possession of a member of the
 30 person's immediate family, or belonging to a person whose property the
 31 person has authority to protect. However, a person:

32 (1) is ~~not~~ justified in using deadly force; ~~unless~~ **and**

33 (2) **does not have a duty to retreat;**

34 **only if** that force is justified under subsection (a).

35 (d) A person is justified in using reasonable force, including deadly
 36 force, against another person **and does not have a duty to retreat** if
 37 the person reasonably believes that the force is necessary to prevent or
 38 stop the other person from hijacking, attempting to hijack, or otherwise
 39 seizing or attempting to seize unlawful control of an aircraft in flight.
 40 For purposes of this subsection, an aircraft is considered to be in flight
 41 while the aircraft is:

42 (1) on the ground in Indiana:

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- 1 (A) after the doors of the aircraft are closed for takeoff; and
- 2 (B) until the aircraft takes off;
- 3 (2) in the airspace above Indiana; or
- 4 (3) on the ground in Indiana:
- 5 (A) after the aircraft lands; and
- 6 (B) before the doors of the aircraft are opened after landing.
- 7 (e) Notwithstanding subsections (a), (b), and (c), a person is not
- 8 justified in using force if:
- 9 (1) the person is committing or is escaping after the commission
- 10 of a crime;
- 11 (2) the person provokes unlawful action by another person with
- 12 intent to cause bodily injury to the other person; or
- 13 (3) the person has entered into combat with another person or is
- 14 the initial aggressor unless the person withdraws from the
- 15 encounter and communicates to the other person the intent to do
- 16 so and the other person nevertheless continues or threatens to
- 17 continue unlawful action.
- 18 (f) Notwithstanding subsection (d), a person is not justified in using
- 19 force if the person:
- 20 (1) is committing, or is escaping after the commission of, a crime;
- 21 (2) provokes unlawful action by another person, with intent to
- 22 cause bodily injury to the other person; or
- 23 (3) continues to combat another person after the other person
- 24 withdraws from the encounter and communicates the other
- 25 person's intent to stop hijacking, attempting to hijack, or
- 26 otherwise seizing or attempting to seize unlawful control of an
- 27 aircraft in flight.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1028, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 31, delete "or".

Page 3, between lines 31 and 32, begin a new line block indented and insert:

"(4) on the property of an oil refinery; or".

Page 3, line 32, delete "(4)" and insert "(5)".

and when so amended that said bill do pass.

(Reference is to HB 1028 as introduced.)

RUPPEL, Chair

Committee Vote: yeas 7, nays 1.

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